

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0560P
Sales Tax and Use Tax
For Calendar Years 1999 and 2000

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Upon audit, it was discovered that the taxpayer failed to remit all of its collected Sales Tax and failed to charge and remit tax on a portion of its taxable sales.

Taxpayer, in a letter dated November 14, 2002 requests that the department waive the penalty because the controller made accounting errors related to the recording and payment of sales tax collected. Compounding the problem was the controller's failure to report the problem to taxpayer's management. The lack of communication to management continued from the time of the tax underpayments until after the termination of the controller's employment. Taxpayer states that it reasonably relied on the controller regarding tax issues. Taxpayer requests waiver of the penalty.

I. **Tax Administration** – Penalty

DISCUSSION

Taxpayer was assessed a ten percent (10%) penalty because it failed to correctly report its taxable sales.

Taxpayer protested penalties assessed and states it relied on its controller to correctly remit tax collected. Taxpayer further states it has instituted procedures to assure that sales tax is remitted timely.

Taxpayer has not provided reasonable cause to allow a waiver of the penalty assessed. An employee's failure to remit the tax is not reasonable cause.

FINDING

Taxpayer's protest is denied.